

The following ITB Instructions and Conditions are applicable to ALL Michigan Invitations to Bid. A signature on the official Invitation to Bid (Form DMB-285) is certification that the bid response is in accordance with the requirements of the bid, including these instructions and conditions, the ITB, and any attachments or addendums thereto.

DMB 285 (4/00)

ITB INSTRUCTIONS AND CONDITIONS

1. **PROCUREMENT POLICY.** Procurement for the State of Michigan shall be handled in a manner providing fair opportunity to all businesses, including woman owned, minority owned and handicapped owned businesses. This shall be accomplished without reduction or sacrifice of quality and as determined to be in the best interest of the State. The State Purchasing Director has the vested authority to make the final decision on the award of a contract or purchase order.
2. **PRICES AND NOTATIONS** must be typed or in ink. Prices shall be for new items only unless specified otherwise in the Invitation to Bid (ITB). Any form of pricing corrections made to the quotation by the bidder prior to submission should be initialed in ink by the person signing the quotation. In the event of uninitiated pricing corrections, the buyer, with management approval, may require an affidavit from the bidder confirming the price correction was made prior to the bid submission.
3. **UNIT PRICES** should be stated based on units specified, Quote on each item separately and indicate brand name or make. Extend and total the bid. In case of discrepancies between unit price and extended price the unit price will be the basis for award.
4. **DELIVERY TIME** is a part of the consideration for the award and must be stated in definite terms and adhered to. If time varies on different items, the bidder shall so state.
5. **QUOTATIONS.** A quotation must be signed by an authorized officer or employee of the company appearing on the ITB. The signature represents a binding commitment upon the company to provide such goods and/or services offered to the State should it be determined the lowest responsive bidder.
6. **TAXES.** The State of Michigan is exempt from Federal Excise Tax, State and Local Sales Tax, and Use Tax, and such taxes shall not be included in the bid price. Sales to the State of Michigan are not exempt from the environmental protection regulatory fee imposed pursuant to Section 21508 of 1994 PA 451, MCL 324.21508
7. **SAMPLES** of items, when required, must be furnished free of expense and if not destroyed by tests will be returned at bidder's expense. Samples must be received on or before bid opening if so requested on the bid.
8. **DELIVERY TERMS.** Unless otherwise stated, bids should be quoted F.O.B. Delivered. F.O.B. Delivered means delivered to the dock of the "Ship To" address noted on the ITB, and includes all charges for transportation or any other service.
9. **CANCELLATION OF CONTRACT** (a) The State may cancel the Contract for default of the Contractor. Default is defined as the failure of the Contractor to fulfill the obligations of the quotation or Contract. In case of default by the Contractor, the State may immediately and/or upon 30 days prior written notice to the Contractor cancel the Contract without further liability to the State, its departments, divisions, agencies, sections, commissions, officers, agents and employees, and procure the services from other sources, and hold the Contractor responsible for any excess costs occasioned thereby; (b) The State may cancel the Contract in the event the State no longer needs the services or products specified in the Contract, or in the event program changes, changes in laws, rules or regulations, relocation of offices occur, or the State determines that statewide implementation of the Contract is not feasible, or if prices for additional services requested by the State are not acceptable to the State. The State may cancel the Contract without further liability to the State, its departments, divisions, agencies, sections, commissions, officers, agents and employees by giving the Contractor written notice of such cancellation 30 days prior to the date of cancellation; (c) The State may cancel the Contract for lack of funding. The Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation of funds for this project. If funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available, the State shall have the right to terminate this Contract without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to the Contractor. The State shall give the Contractor written notice of such non-appropriation within 30 days after it receives notice of such non-appropriation; (d) The State may immediately cancel the Contract without further liability to the State its departments, divisions, agencies, sections, commissions, officers, agents and employees if the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under state or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects on the Contractor's business integrity; (e) The State may immediately cancel the Contract in whole or in part by giving notice of termination to the Contractor if any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article I 1, Section 5, and Civil Service Rule 4-6; (f) The State may, with 30 days written notice to the Contractor, cancel the Contract in the event prices proposed for Contract modification/extension are unacceptable to the State.
10. **CASH DISCOUNTS.** The State will not consider cash discounts for prompt payment in determining the lowest responsive bidder unless otherwise stated.
11. **NO BID RESPONSES.** Bidders who cannot quote should return this form stating the reason for not bidding. Failure to return this form may result in removal of the bidder's name from all bidder lists.
12. **SPECIFICATIONS.** Specifications which refer to brand names are given for reference only- Bidders may quote on equivalent goods, provided complete descriptive literature is furnished along with brand name and catalog number. Any deviations from the solicitation must be noted on the bid. When equivalent goods will not be accepted, the quotation will state "DO NOT SUBSTITUTE".
13. **ALTERNATE BIDS.** Bidders may offer alternate bids which are at variance from the express specifications of the quotation, and the State reserves the right to consider and accept such bids if, in the judgment of the State Purchasing Director, the alternate bid will produce goods and/or services equal to or better than those which would be supplied by following the express specifications of the quotation, and acceptance of the alternate bid is deemed to serve the best interests of the State of Michigan. An alternate bid must clearly describe all variances from the express specifications.
14. **AWARD.** The State reserves the right to award by item, group of items, or total bid. The State further reserves the right to reject any or all bids if it is determined by the State Purchasing Director that the best interest of the State will be served by doing so. In determining an award, qualifications of the bidder, conformity with specification of goods and/or services, cost, and delivery terms will be considered.
15. **RECEIPT OF BIDS.** It is the bidder's responsibility to ensure that bids be received at the location and prior to the date and time specified on the face of the bid. This responsibility rests entirely with the bidder, notwithstanding delays resulting from postal handling or for any other reasons. Late bids will not be accepted or considered except under the following circumstances: a) bids received on time do not meet specifications, or b) no other bids are received.
16. **INSPECTION.** All goods are subject to inspection and testing. In the event goods are defective in material or workmanship, or otherwise fail to meet the requirements of the quotation, the State shall have the right to reject the goods or retain the goods and correct the defects. The contractor shall pay the State for expenses incurred in correcting defects. Rejected goods will be held for 45 days after delivery. The contractor must arrange for the return of said goods, including paying for handling, packing, and transportation costs. The State has the authority to dispose of the goods without further liability to the State in the event the contractor fails to make such arrangements within the specified time period.
17. **NON-DISCRIMINATION CLAUSE.** In the performance of any Contract or purchase order resulting herefrom, the bidder agrees not to discriminate against any employee or applicant for employment, with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental or disability unrelated to the individual's ability to perform the duties of the particular job or position.. The bidder further agrees that every subcontract entered into for the performance of any Contract or purchase order resulting herefrom will contain a provision requiring non-discrimination in employment, as herein specified, binding upon each subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 Public Act 453, as amended, MCL 37.2101, *et seq.* and the Persons with Disabilities Civil Rights Act, 1976 Public Act 220, as amended, MCL 37.1101, *et seq.* and any breach thereof may be regarded as a material breach of the Contract or purchase order.
18. **STATE LAWS.** All contracts or purchase orders issued as a result of this solicitation are subject to, shall be governed by, and construed in accordance with the laws of the State of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.
19. **ASSIGNMENT OF ANTITRUST CAUSE OF ACTION.** For and in consideration of the opportunity to submit a quotation and other good and valuable consideration, the bidder hereby assigns, sells and transfers to the State of Michigan all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of payment and which relate solely to the particular goods, commodities, or services purchased or procured by this State pursuant to this transaction.
20. **ACCOMMODATION/ACCESS.** If any bidder needs an accommodation or access to submit a bid, they should call (517) 373-0330 for assistance-
21. **UNFAIR LABOR PRACTICES.** Pursuant to 1980 Public Act 278, as amended, MCL 423.231, *et seq.*, the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to Section 2 of the Act. A Contractor of the State, in relation to the Contract, shall not enter into a Contract with a subcontractor, manufacturer, or supplier whose name appears in this register, Pursuant to Section 4 of 1980 Public Act 278, MCL

423.324, the State may void any Contract if, subsequent to award of the Contract, the name of the Contractor as an employer, or the name of the subcontractor, manufacturer or supplier of the Contractor appears in the register.